
4.0 GOVERNANCE PLAN

The decision-making process and governance structure for implementation of the CALFED Preferred Alternative is a key feature in assuring successful program implementation. A CALFED long-term governance proposal is described in this section. The state and federal administrations strongly believe that a new joint federal/state commission must be created, through state and federal legislation, to oversee the long-term implementation of the CALFED Preferred Alternative. This approach will require resolution of federal constitutional concerns. In the near-term the CALFED agencies will develop an interim governance structure similar to the current voluntary structure to bridge the gap before appropriate legislation can be completed establishing a permanent structure.

The Implementation Plan and Governance Plan are included in the Final Programmatic EIS/EIR to provide the public with additional information about the CALFED Bay-Delta Program. These sections are not legally required as part of the evaluation of program impacts. The Governance Plan is not an action or project that requires environmental analysis. Additional refinement of the Governance Plan, including the necessary details is expected by the time of the ROD. Refinement will also likely occur through the legislative process as legislation is developed to implement the new commission.

Schedule for Governance Decisions

- Interim Governance
 - New Implementation MOU adopted by the time of the Record of Decision
 - Operates until a long-term governance structure adopted
- Long-Term Governance
 - Proposal in Final EIS/EIR
 - Legislation needed to finalize

The CALFED Program is a complex, multi-objective program which involves many agencies and programs, and covers a large geographic scope. The CALFED Program provides an integrated approach to environmental and water management in the Bay-Delta System. To develop a Preferred Alternative the program has been organized into eight program elements. In addition to the program elements there are programs that will be established to support CALFED implementation, such as the Science Program and Environmental Water Account. In this chapter these programs will be referred to as "program areas."

In developing a long-term governance structure, CALFED identified and evaluated principles, functions, and structures/forms needed to successfully implement the CALFED Program. Included in this chapter is a discussion of the:

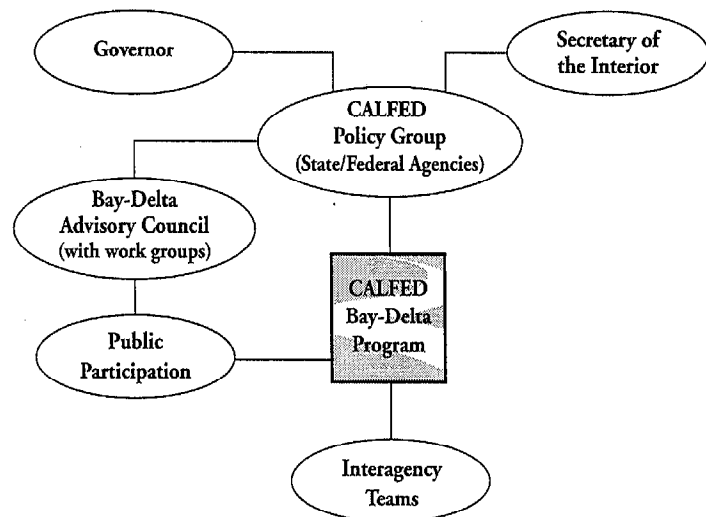
- Existing governance structure and decision-making processes for CALFED
- Functions needed for CALFED implementation
- Interim governance proposal
- Reasons for a new governance structure
- Long-term governance principles and proposal

4.1 Background

The CALFED Program is a collaborative effort between state and federal agencies to develop a long-term solution to the Bay-Delta problems. To develop the long-term solution, the Program is organized into three Phases. Phases I and II of the Program focused on development of the Preferred Alternative and preparation of the Final EIS/EIR. After the NEPA/CEQA process is complete, Phase III -- program implementation -- begins. Program implementation will include all aspects of implementation, including continued planning on a program or project specific level, as well as direct implementation of programs and projects.

The current organization of the CALFED Program is shown below. The operating principles were agreed to in the 1994 Framework Agreement, an interagency MOU between the Governor's Water Policy Council and the Federal Ecosystem Directorate. The CALFED Policy Group has served as the primary governing body, providing program direction and coordination of individual agency decision-making on CALFED issues. Currently there are 18 CALFED agencies on the CALFED Policy Group (see list below). In recent years, several additional agencies have been asked to participate on the Policy Group to increase interagency coordination. Each Policy Group member has management or regulatory responsibilities for the Bay-Delta or its watershed. Legal authority for program decisions currently rests with the Governor (for state matters) and the Secretary of the Interior (for federal matters). Formal public comment and advice to the agencies has been provided by BDAC, a

Existing CALFED Program Structure



federally chartered citizens' advisory committee with over 30 members. In addition, advice and comment has been provided in smaller forums through BDAC work groups, subcommittees, and other technical groups. For the past several years, the CALFED Program has worked with the BDAC Governance Work Group, the Work Group which has provided advice and comment on the governing structure for the CALFED Program.

<u>State CALFED Agencies</u>	<u>Federal CALFED Agencies</u>
CA Resources Agency	(U.S. Department of Interior)*
Department of Fish and Game	Fish and Wildlife Service
Department of Water Resources	Bureau of Reclamation
CA Environmental Protection Agency	Geological Survey
Water Resources Control Board	Bureau of Land Management
Department of Food and Agriculture	U.S. Environmental Protection Agency
Delta Protection Commission	(U.S. Department of Commerce)
The Reclamation Board	National Marine Fisheries Service
	(U.S. Department of Agriculture)
	Natural Resources Conservation Service
	Forest Service
	Western Area Power Administration
	U.S. Army Corps of Engineers
* Agencies shown in parenthesis are not Policy Group members but are shown to indicate the agency organization	

4.2 Functions for Implementation --Phase III

As CALFED moves into program implementation (Phase III) from the planning phase, new responsibilities and functions will be required. Before proposing a governance structure suitable for program implementation, CALFED first identified the basic functions that will need to be performed in Phase III. CALFED has organized functions for implementation of the Program into three categories to accommodate the complexity of the Program; program direction, program management, and direct implementation. In all cases, the functions do not predetermine the form or governing structure that will be used, but guide the evaluation and selection of the structures.

1. **Program Direction and Oversight Functions.** An entity will need to provide broad program direction and oversight for the CALFED Program during implementation, as the Policy Group has done during the planning stage. Because the Program has four equal objectives (ecosystem, water quality, levee stability, and water supply reliability), it will

be important for an entity to ensure balance, integration and coordination between the objectives. Program direction functions include:

- Oversight of CALFED Program Implementation. An entity needs to be responsible for developing policies and making decisions to achieve program goals and objectives, making decisions at program milestones (staged decision-making), and providing direction to ensure balanced implementation, integration, and continuous improvement in all program areas.
- Program Assessment and Modification. An entity needs to be responsible for assessing overall achievement of program goals and objectives, and modification, as needed, of program goals and objectives. Modification would be done in coordination with the appropriate agencies and with public input.
- Review and Approve Priorities and Budgets. An entity needs to be responsible for review and approval of program priorities and budgets in all program areas, whether the funding is appropriated to the entity or to other state and federal agencies. The responsible entity would be subject to individual state and federal agency budget development, review, and approval processes.
- Coordination and Integration of Related Programs. An entity needs to be responsible for coordination, and if appropriate integration, of the CALFED Program with other related programs to maximize available resources and reduce conflicts and inconsistencies with other programs. Programs would need to be identified within the state and federal agencies that are most related to CALFED objectives to determine what level of coordination and integration those programs should have with CALFED.
- Conflict/Dispute Resolution. An entity needs to be responsible for facilitating resolution of conflicts/disputes between CALFED agencies.
- Public Outreach and Communication. Although there will be numerous agencies in each program area that will work with the public, a single entity needs to be responsible for public input and communication for the CALFED Program as a whole.
- Legislative Communication. An entity needs to be responsible for communicating with Congress and the California Legislature to report on program progress, answer legislative inquiries, review and respond to legislative proposals, and to review and submit legislative proposals.

2. **Program Management Functions.** Program management for each program area will be critical for effective implementation. Program management functions include:

- Manage program implementation
- Identify priorities, propose actions, develop budgets
- Assess and report on program area performance
- Coordinate with implementing agencies and stakeholders, and between program areas

3. **Direct Implementation Functions.** These functions have been identified separately because some agencies which may be involved in CALFED Program implementation may not have program management responsibility. For example, one entity will be responsible for program management of the ERP (Bay-Delta Program in the interim), but there will be many agencies and organizations responsible for direct implementation of ERP actions. Direct implementation functions include:

- Responsibility for direct implementation of individual actions
- Report on assessment and monitoring of individual actions
- Prepare environmental documentation and obtain permits
- Stakeholder and local coordination for individual actions

4.3 Interim CALFED Governance

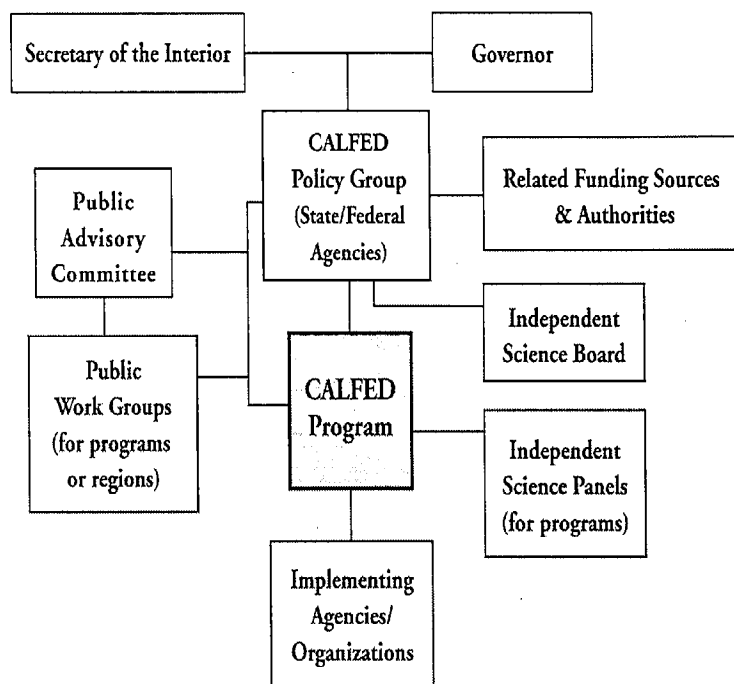
The interim structure will be in place from the time of the Programmatic ROD until a long-term permanent structure is adopted through state and federal legislation. For interim governance, CALFED proposes adoption of the current CALFED structure being used during the planning stage, but adapted for implementation. The interim governance structure, including identification of how decisions will be made, will be set forth in a new Implementation MOU which the agencies will develop and execute by the time of the ROD. The current structure is made up of the Policy Group reporting to the Governor and Secretary of the Interior, public advisory groups, the CALFED Bay-Delta Program Executive Director and staff, and state and federal agencies and teams. This structure, with additions and modifications, will serve to bridge the gap until a permanent commission is established. In Section 4.4, the reasons why CALFED does not support using the current structure on a permanent basis are described.

Interim Implementation Functions and Responsibilities. Described below is the proposed distribution of responsibilities and functions for interim implementation of the Preferred Alternative. In the proposed long-term governance structure, the Policy Group would be replaced by the commission, and the Bay-Delta Program staff would be replaced by the commission staff.

Policy Group and CALFED Bay-Delta Program.

In the interim, the program direction functions will continue to be performed by the CALFED Policy Group with support by the Bay-Delta Program staff. Bay-Delta Program staff will provide program direction and coordination for priorities, workplans, and budgets developed by state and federal agencies participating in CALFED implementation. Program priorities, workplans and budget requests for "Primary" CALFED programs (those programs targeted at CALFED objectives) should be reviewed by the CALFED Policy Group. While final approvals will continue to rest with the agencies with program and funding authority, Policy Group will provide recommended approvals to the funding agency. This review and coordination is critical in the interim to ensure programs and funding are meeting CALFED objectives.

CALFED Interim Governance Structure



Public Involvement. In the interim, public involvement in the implementation of the Program will be through public advisory groups and through public Policy Group meetings. A broad public advisory group will be formed to meet jointly with Policy Group and separately as needed. Public involvement will continue to be provided through groups focused on individual program areas, such as the Delta Drinking Water Council, the Ecosystem Roundtable, and other workgroups. In addition, regional advisory groups may be established. Other options for public involvement in the interim are being evaluated.

Funding. As CALFED implementation begins, it is critical that the program demonstrates progress in meeting its objectives and demonstrates an integrated program. Although state and federal agencies that are members of the CALFED Policy Group are in strong support of a coordinated program, it will be a challenge to oversee and coordinate a fragmented program in which all funding and program authority rests in numerous agencies. In the interim, CALFED Policy Group and the Bay-Delta Program staff will provide funding coordination and integration among the many agencies. This will be especially necessary with regard to "primary" CALFED Programs--those programs and funding targeted at CALFED objectives. Program priorities, workplans and budget requests for primary CALFED programs should be coordinated with Bay-Delta Program staff and reviewed by the CALFED Policy Group. While final approvals

will continue to rest with the agencies with program and funding authority, Policy Group will provide recommended approvals to the funding agency. CALFED agencies will define the primary CALFED programs and funding in the Implementation MOU by the time of the ROD.

Crosscut Budget. To ensure coordination between CALFED “primary” programs and CALFED “related” programs, the Policy Group should review and comment on an annual CALFED crosscut budget prepared by the Bay-Delta Program staff. The Policy Group should provide recommendations to the appropriate agencies on program modifications needed to increase coordination with CALFED primary programs. Coordination with state and federal agencies will be needed in the early planning stages of budget preparation as well as after program budgets are approved by Congress or the State Legislature. Additional review is needed to identify those programs that should be included in an annual CALFED crosscut budget. Once identified, those programs should be listed in an interagency MOU specifying the agreement to coordinate and share program and funding information.

Interim Program Management. With program management responsibilities distributed among many agencies, it is important that agencies closely coordinate to achieve the CALFED objectives. Therefore, in the interim the Bay-Delta Program will provide program direction and oversight for each program area.

The Bay-Delta Program will not supplant any action or decision required by law to be performed by a CALFED agency. In the interim, CALFED agencies will utilize the CALFED process to reduce fragmentation among existing agencies. The degree to which the process is used will vary, depending on the program. In most cases, program management functions for each program area will be performed by staff at the state and federal agencies which currently have program and funding authorities. For several programs such as the ecosystem restoration, watershed and drinking water quality programs, the Bay-Delta Program will take a larger role in program management. In all cases, however, CALFED agencies will retain and exercise their statutory authorities. The term program management does not suggest any delegation of an agency’s authority to the Bay-Delta Program. Interim program management of each CALFED program area is described below.

In the interim, primary CALFED programs, those targeted at CALFED objectives, should be reviewed by the CALFED Policy Group.

While final approvals will continue to rest with existing agencies, Policy Group will provide recommended approvals.

1. Levee System Integrity Program

In the interim, program management responsibilities will remain with DWR, DFG, and other existing agencies. However, the Bay-Delta Program will provide program direction and oversight, and serve as program manager for several tasks (such as risk assessment studies and North Delta planning). Final decision-making authority would continue to rest with existing

agencies, however, program priorities and funding should be coordinated and reviewed by the CALFED Policy Group. The Program should coordinate closely with DWR on the levee programs and funding (subventions and special projects) to ensure consistency and integration with CALFED objectives. The Bay-Delta Program will form and manage an agency and stakeholder coordination group to provide technical coordination and to allow for public advice in the implementation of the Program.

2. Ecosystem Restoration Program

In the interim, the Bay-Delta Program will continue to be assigned program management functions for the ERP, in coordination with the appropriate agencies. Although funding authority rests with existing agencies (such as the Resources Agency for Proposition 204, and participating federal agencies for the Federal Bay Delta Act), the funding agencies have assigned program management to the Bay-Delta Program to avoid fragmentation. Final decision-making authority would continue to rest with existing agencies, however, program priorities, workplans, and funding should be coordinated and reviewed by the CALFED Policy Group.

Implementation of the ERP will follow a "single blueprint for ecosystem restoration and species recovery", as proposed by the ERP Focus Group. The single blueprint supports a cooperative and unified approach to restoration of the Bay-Delta System -- both within the CALFED program, and between all resource management, conservation, and regulatory actions affecting the Bay-Delta System. To ensure communication and integration occurs, a management framework including agreements between parties will be adopted early in Phase III. (See the Phase II Report for additional description of the single blueprint.)

In the interim, the Ecosystem Roundtable or a similar advisory body will continue to provide public input in the program. An Interim ERP Science Board has been established and will continue in Phase III to advise the ERP on science issues. The ERP science activities will be coordinated with the CALFED Science Program and the CALFED Independent Science Board, once established.

3. Environmental Water Account (EWA)

In the interim and for the first four years of Stage 1, the state and federal fishery agencies (DFG, USFWS, NMFS) will manage the EWA assets, in coordination with the ERP and with water project operations. Coordination with the project operators and stakeholders will be through the CALFED Operations Group. Initial acquisition of assets for the EWA will be made by federal and state agencies (USBR and DWR). Subsequently, it is anticipated that acquisitions will be made pursuant to a public process that may take advantage of other agencies or third parties to acquire assets. The EWA assets and decisions over how the assets are used will be reviewed by an independent EWA science panel. The Bay-Delta Program will serve the role of facilitator and coordinator for EWA.

4. Watershed Management Program

In the interim, the Bay-Delta Program staff will be assigned for program management of the CALFED Watershed Program. As funds are appropriated for the CALFED Watershed Program, the Bay-Delta Program will be assigned program management responsibilities for those primary CALFED funds to avoid fragmentation of program management. Final program and funding decisions during the interim will continue to rest with the funding agency but should be coordinated and reviewed by CALFED Policy Group. For funds appropriated to state and federal agencies for the related watershed activities (such as programs within the SWRCB, EPA, USFS, and NRCS), the Bay-Delta Program should coordinate closely with the agencies.

The Bay-Delta Program staff will facilitate and coordinate communication between the Program areas and among the various watershed groups/agencies to increase coordination and consistency with CALFED watershed and community-based implementation objectives as much as possible. The Interagency Watershed Advisory Team (IWAT) will continue to provide advice to CALFED on program priorities, funding, and implementation. The Watershed Work Group will continue to be the main forum for formal public input and advice on the program.

5. Drinking Water Quality

In the interim, the Bay-Delta Program staff will be assigned the program management functions for the Drinking Water Quality Program. As funds are appropriated to the Bay-Delta Program for the CALFED Drinking Water Program, the Bay-Delta Program will be assigned program management responsibilities for those funds to avoid fragmentation of program management. However, it is expected that because significant funding targeted for the CALFED drinking water program will also be appropriated to various agencies (such as USBR, EPA, DHS, DWR, SWRCB), program management responsibilities will be dispersed among these agencies, unless those agencies assign program management responsibility to the Bay-Delta Program. For those primary CALFED funds appropriated to CALFED agencies, the Bay-Delta Program will need to provide interagency coordination and program direction/oversight to ensure CALFED objectives are being met. The Delta Drinking Water Council will continue in the interim, and will likely be part of the long-term governance structure. The Council was established to provide agency and stakeholder advice and input into the decision-making process for drinking water issues.

6. Water Management Program

Water Management Strategy. The WMS provides a broad framework to coordinate and integrate the many water management tools in the program, evaluate the success of implementation efforts, and to select additional tools needed to achieve CALFED's water supply reliability objective. The Bay-Delta Program staff will manage the WMS in the interim, and coordinate with appropriate agencies. The Bay-Delta Program should coordinate closely with

other programs within DWR and with USBR to develop budget proposals and workplans to support the WMS.

Water Transfers. In the interim, the Bay-Delta Program staff will provide program direction, oversight, and coordination among Program areas and among agencies with jurisdiction over water transfers and use of project facilities. Agencies with jurisdiction over water transfers would retain authority to implement any changes in their own policies or procedures. As CALFED member agencies, these agencies will coordinate with the Bay-Delta Program to implement program recommendations. USBR and DWR will continue to have jurisdiction over the use of and access to their respective project facilities. These agencies will work in close coordination with the SWRCB to provide a consistent set of rules and guidelines for water transfers and a streamlined transfer review and approval process.

Water Use Efficiency. In the interim, DWR and USBR will be responsible for program management of the technical assistance and loan assistance elements of the CALFED Water Use Efficiency Program. The Bay-Delta Program staff will provide the program direction and oversight for the WUE Program, and will be assigned the responsible for program management of the grant assistance element. The Bay-Delta Program staff will coordinate with the CUWCC, AWMC, and other public groups during the refinement and implementation of the WUE Program. Bay-Delta Program staff will convene technical work groups to conduct and review directed studies, to address technical issues, and to respond to problems associated with public acceptance of WUE actions. Funding for the WUE program will be appropriated to DWR and USBR, but the Policy Group should recommend approval of priorities, workplans and expenditures for CALFED WUE proposals.

Water Recycling. In the interim, the existing agencies will provide program management for the recycling program and the Bay-Delta Program will provide the program direction and oversight. To the extent funding agencies request assistance from the Bay-Delta Program, the Program may be assigned program management functions as well. It is expected that funding authority for recycling actions will remain with existing agencies in the interim, and that new funds would not be appropriated to the Bay-Delta Program. Therefore, coordination with state and federal agencies (SWRCB, DWR, and USBR) which have funding for recycling programs will be critical in the interim to ensure state and federal funding is available to support CALFED objectives as much as possible. Specifically, the Bay-Delta Program should work closely on recycling programs funded by existing and new bond funds. Final program and funding decisions during the interim will continue to rest with the agencies with funding authority, but should be coordinated and reviewed by the CALFED Policy Group.

Storage. In the interim, DWR and USBR will share responsibility for program management for the ISI, and the Bay-Delta Program will provide program direction and oversight. DWR and USBR will be responsible for their portions of the ISI. The Bay-Delta Program will work closely with DWR, USBR, and other agencies to ensure programs are coordinated and consistent with

CALFED objectives. Final program and funding decisions during the interim will continue to rest with the agencies with funding authority, but should be coordinated and reviewed by the CALFED Policy Group. The Bay-Delta Program will work with DWR or USBR to convene technical advisory committees to work with Bay-Delta Program and ISI staff on specific project studies (such as the existing Technical Advisory Committees on Sites Reservoir).

Conveyance. In the interim, the Bay-Delta Program will be assigned responsibility for program management of the conveyance program element. The Bay-Delta Program will continue to serve the program management functions for the North Delta and South Delta Programs which include conveyance, levee, water quality and ecosystem actions. In the interim funding will remain with existing agencies. Existing agencies, primarily DWR and USBR, will be responsible for individual project management. The Bay-Delta Program should work closely with DWR and other appropriate agencies to ensure programs are coordinated and consistent with CALFED objectives. Final program and funding decisions during the interim will continue to rest with the agencies with funding authority, but should be coordinated and reviewed by the CALFED Policy Group.

7. Water Operations

In the interim, state and federal agencies and stakeholders will continue to coordinate and resolve operations issues through a multi-step process. The CALFED agencies involved in operations are USBR, USFWS, NMFS, DWR, and DFG. Most operational conflicts will be resolved at the operator or director level, but senior levels of government need to remain informed as conflicts develop. As conflicts develop they would be referred first to the CALFED Operations Group (Ops Group). Ops Group would draw on the advice and discussions within the stakeholder forum (No-Name Group), and the agency biologist team (Data Assessment Team). Ops Group will communicate decisions and remaining conflicts to the Water Operations Management Team (WOMT) -- a high level agency group responsible for resolving conflicts among competing resources demands. As conflicts arise, an "early warning" will be provided to senior state and federal policy makers to expedite the resolution of conflicts. The Bay-Delta Program will serve the role of facilitator and coordinator of WOMT.

8. Science Program

In the interim, the Bay-Delta Program staff will be responsible for program management of the CALFED Science Program. The Bay-Delta Program will hire an Interim Science Leader (ISL) to coordinate, oversee, and direct the many aspects of the science program. Each program area will work with the ISL in the management of the science program. How management responsibilities will be distributed between the ISL and the program areas is still being determined. In order to better integrate objective scientific review into the CALFED Program, the Governor and the Secretary of the Interior will appoint an Independent Science Board to provide science oversight for the overall program. A science panel will be convened for review

of the EWA. Other science panels, such as the current Interim Science Board for the ERP, will be convened as needed. In general, direct implementation of monitoring, assessment, and research will be performed by existing agencies and nongovernmental organizations. Final program and funding decisions during the interim will continue to rest with the agencies with funding authority, but should be coordinated and reviewed by the CALFED Policy Group.

9. Regulatory Compliance and Coordination

In the interim, the Bay-Delta Program will oversee and coordinate the regulatory compliance activities (environmental documents, permit assistance, compliance monitoring, data management, and dispute resolution) for CALFED actions. Agencies responsible for preparing the environmental document and obtaining permits are those agencies tasked with project management, or otherwise required by law to do so. CALFED is developing a comprehensive list of permit requirements for all proposed components in early Stage 1 and has convened discussions between the state and federal regulatory agencies to establish a "permit clearinghouse" to coordinate and expedite permitting across all CALFED programs. CALFED agencies will develop an MOU detailing this clearinghouse process by December 2000.

4.4 Reasons for a New Governance Structure

The current CALFED governance structure was established to develop a long-term plan to address the Bay-Delta problems. State and federal agencies agreed upon operating principles for the CALFED Program in the 1994 Framework Agreement, an interagency MOU between the Governor's Water Policy Council and the Federal Ecosystem Directorate. The planning phase of the program is ending and the implementation phase is soon to begin with the signing of the ROD. In the process of evaluating options for a CALFED long-term governance structure to implement the CALFED Program, CALFED agencies reviewed the following governance functions/responsibilities necessary for implementation to determine whether the existing structure could successfully serve those functions, or whether a change would be needed.

Program Direction Functions. Provide broad program direction for the CALFED Program during implementation to ensure program balance, integration and coordination among the four equal program objectives. Program direction functions include:

- Oversight of program implementation
- Program assessment
- Review and approve priorities and budgets
- Coordinate related programs
- Conflict resolution
- Public outreach and communication
- Legislative communication

The CALFED agencies have determined that the existing structure is not adequate to serve as the long-term governing structure for CALFED the following reasons.

Dispersed authority. The MOU which established the Policy Group provides a forum for communication that has served well for the planning phase of the program. However, the current voluntary informal structure does not provide the authority necessary to ensure continued balance and integration over a long-term period. Authority for funding and program implementation currently resides in many state and federal agencies. Without a more formal structure, the Program would not have the authority to receive funding or direct programs and activities to serve the CALFED objectives. Instead the CALFED Program would need to rely on the cooperation of numerous agencies over a 30 year implementation period.

Lack of accountability. CALFED is a voluntary association among between 18 state and federal agencies. Each agency retains its own authority but has agreed to coordinate with the other agencies. This association lacks the structure and accountability necessary to assure success of a multi-faceted 30-year program. With significant funding being sought to implement the CALFED Program, a single point of accountability is needed for the public, Congress and the California Legislature to address concerns regarding the success or problems with program implementation.

Lacks durability. A formal mandate by the California Legislature and Congress is needed to ensure a lasting partnership of the state and federal governments. An MOU is a voluntary agreement to cooperate which does not provide the durability and foundation for a state and federal partnership over a 30-year or longer period of implementation.

4.5 Long-term Governance Proposal

CALFED strongly believes that a new public agency needs to be created to oversee the long-term implementation of the CALFED Preferred Alternative. The state and federal administrations support legislation to create a joint federal/state commission. This approach will require resolution of federal constitutional concerns. The legislative charge to the new commission should be to provide program direction and oversight of the program. A joint commission made up of high-level appointees would maintain visibility inside and outside the government, assure agency coordination, help secure funding, and provide policy leadership. This proposal for a new commission embodies an integrated approach to water and environmental management in the Bay-Delta system that requires a shift in authorities and management of these critical resources. CALFED has adopted the following principles that summarize the essential elements of the governance proposal.

4.5.1 Principles

- Principle 1:** Federal/State Partnership. The CALFED Program, as defined in the final Programmatic EIS/EIR and accompanying documents, should be carried out through a state and federal government partnership.
- Principle 2:** Accountability. There should be a clear point of, and process, of accountability of the Program to the Legislature, the Congress, and the public.
- Principle 3:** Commission. A new commission should be created to provide direction and oversight of the Program to achieve CALFED Program goals and objectives.
- Principle 4:** Membership. The membership of the commission should be made up of state, federal, tribal, and public members. Public members should represent a broad array of interested constituencies. State and federal members should be representatives at the highest level of the agency organization.
- Principle 5:** Leadership. The governing structure and authorities of the commission should be designed to attract effective leadership.
- Principle 6:** Changes in Authorities. The commission will not exercise or supplant any regulatory authorities. However, changes in specified program and funding authorities should be made in legislation to consolidate or coordinate management of each program area.
- Principle 7:** Agency/Tribal Participation. The commission should establish a process to support participation and coordination with agencies (federal, state, and local) and tribes involved in and affected by the CALFED Program who are not members of the commission. The commission should facilitate government-to-government consultation with the tribes.
- Principle 8:** Public Involvement. The commission's meetings should be open and public, and the commission should seek ways to maximize public knowledge of, and involvement in, its work. The commission should support involvement in the Program at a community-based level.
- Principle 9:** Program Management. Program management for each of the program areas should be specified in legislation establishing the commission. Each program area should be evaluated to determine the appropriate entity for assuming program management functions. Responsibility for program management will vary between program areas depending on the nature of the program and actions, the expertise of agencies, and the ability of the agency to manage the programs

without significant conflicting mandates.

Principle 10: Comparable Authority over Program Areas. *Each of the program areas should have the same degree of autonomy from, as well as the same degree of accountability to, the commission. For each program area, the commission should exercise a comparable degree of authority over specified funding and programs.*

Principle 11: Funding. *Funding for implementation of the CALFED Program should be appropriated directly to the commission for those activities assigned to the commission. For CALFED programs managed by another state or federal agency, funding for the program should be appropriated directly to that agency, with control language requiring commission review, coordination, and approval of program plans, priorities, and implementation.*

Principle 12: Crosscut Budget. *For those funds and programs not under commission approval but which are related to CALFED (to be specified in an interagency MOU), the appropriate agencies should participate in preparing an annual Crosscut Budget to ensure coordination with the CALFED Program.*

Principle 13: Legislative Reporting. *The commission should serve as the focal point for contact on the CALFED Program with Congress and the Legislature, and should provide annual status reports on the Program.*

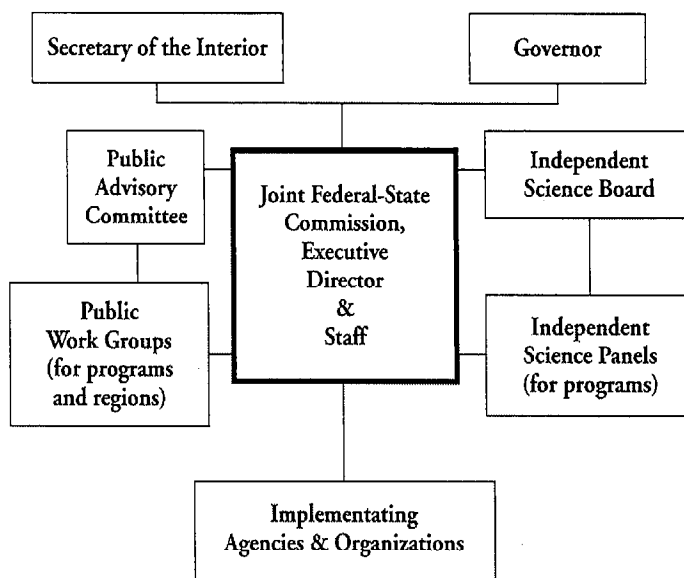
4.5.2 Proposed Joint Federal-State Commission

A new joint federal/state commission (commission) should be created to provide program direction and oversight for the implementation of the CALFED Program as specified in the Final Programmatic EIS/EIR and implementing documents. State and federal legislation will be needed to establish the commission. The legislation should establish a permanent partnership between the state and federal governments which is critical to the success of the CALFED Program. The governing structure of the commission should be joint federal-state entity. This approach will require resolution of federal constitutional concerns. If the constitutional concerns are not resolved, a state commission should be created that has federal participation. At a minimum to maintain a strong partnership, both the state and federal governments will require; equal participation on the commission, long-term funding commitments for the Program, and cooperation and coordination with the commission.

Membership

There are numerous configurations for creating the membership of a new commission. However, in all options CALFED believes it is critical to include the highest level of authority for state and federal agencies, tribes, and stakeholders represented. The success of the CALFED Program will also in part depend on ongoing communication and coordination among state and federal agencies with responsibilities in the program. Because regulatory authorities are being retained in existing agencies, and coordination between the regulatory agencies and the CALFED Program is critical, those agencies need to be represented on the commission.

CALFED Long-Term Governance Structure



Currently the CALFED Policy Group has 18 members and that does not include public members. Listed below are some of the agencies and interest groups that have requested or were considered for membership on a new commission.

- State agencies: Resources Agency, Cal-EPA, DFG, DWR, SWRCB, Department of Food and Agriculture, DHS, Delta Protection Commission, and Department of Finance.
- Federal agencies: Department of the Interior, USFWS, USBR, NMFS, USEPA, Corps, NRCS, and Western Area Power Administration.
- Tribal: Tribal interests have requested membership on the commission. Due the large number of tribes in California, selection of tribal representative(s) could be coordinated with or delegated to the California Tribal Policy Committee or a similar tribal organization representing a broad cross section of tribal leaders in California.
- Other Interests: Local government, watershed organizations, water users, business, environmental, fishing, farming, labor, recreational, boating, and Delta interests.

The participation of these many agencies and interests in the CALFED Program is necessary to ensure successful implementation. However, there are more agencies and constituent groups that are interested in being members on the commission than can reasonably be accommodated. Therefore, the commission will be assisted by an advisory committee whose members would

include qualified representatives of Indian tribes and stakeholder groups. Additional agency teams and agreements will also be needed to ensure broad and continued state and federal agency involvement.

The CALFED agencies propose a 12-member commission made up of equal numbers of high level officials of the federal and state agencies responsible for implementing CALFED programs and a similar number of high level stakeholder and tribal representatives. Under this proposal the commission membership would be 4 federal members, 4 state members, and 4 public/tribal members representing agricultural water users, urban water users, environmentalists, and Indian tribes

Commission Organization, Duties, and Authorities

The commission should be the primary agency responsible for achieving the CALFED Program objectives and targets identified in the CALFED Final EIS/EIR and implementing documents. The overarching mandate of the commission should be to assure effective, balanced and coordinated implementation in all program areas. Regulatory responsibilities will remain with the existing agencies. In general, the commission will provide program oversight and direction, and the CALFED agencies will be responsible for management of individual programs, and direct implementation of actions. In some cases the commission will need to take a more active role in managing certain program areas (such as ecosystem restoration, watershed management, and drinking water quality) in order to minimize fragmentation of CALFED efforts.

The commission should have a strong and effective executive director, who would serve at the pleasure of the Governor and the Secretary of the Interior. The executive director should hire and direct additional staff as needed to assist the commission in carrying out its responsibilities. The executive director would be responsible for providing information, reports and recommendations to the commission, and carrying out and monitoring compliance of the program under the direction of the commission.

The commission should assume the following responsibilities and authorities to ensure program integration and balance:

1. Oversight of CALFED Implementation. The commission should be responsible for developing policies and making decisions in order to achieve program goals and objectives, for making staged decisions at specific program milestones, and for providing direction to ensure balanced implementation integration and continuous improvement in all areas.
2. Program Assessment and Modification. The commission should review and approve an annual performance assessment prepared by commission staff. Prior to submittal to the commission, the CALFED Independent Science Board should review the Assessment and comment on how the CALFED Program is achieving its objectives. The commission should

be responsible for modification, as needed, of program goals and objectives which would be done in coordination with the appropriate agencies and with public input.

3. Review and Approve Priorities and Budgets. The commission should review and approve the annual priorities and budget, through the state and federal budget processes, for those specified "primary" programs/funding under commission authority. The commission should ensure the proposed budget reflects the CALFED priorities and provides program balance and integration. It is critical that sufficient funding is under commission direction for all Program areas to provide assurances of meeting CALFED Program objectives. Additional review is needed to identify the appropriate programs and funding that should either come under commission authority, or should require coordination with the commission but not change authorities.
4. Approve the CALFED Long-term Program Plan and Priorities. The commission should be responsible for adopting CALFED Program priorities as part of a Long-term Program Plan. The CALFED priorities should guide the priorities for each program element to provide integration and balance of the CALFED Program. The commission should review the Long-term Program Plan and priorities annually and modify as needed.
5. Approve Annual Program Element Workplans. The commission should be responsible for review and approval of the annual workplans for each Program Element. Annual workplans should be submitted to the commission after first being reviewed by the Executive Director and commission staff. The commission should review the annual workplans to ensure:
 - A balanced and integrated CALFED Program.
 - Program element priorities are consistent with CALFED Program priorities and consistent with program element objectives and priorities.
 - Independent scientific and technical review of the annual workplans has been conducted and incorporated into the workplans.
 - Public input has been adequately considered in the development of the annual workplans.
6. Coordination of Related Programs. The commission should be responsible for coordination of the CALFED Program with other related programs to maximize available resources and reduce conflicts. Programs will need to be identified that are most related to CALFED objectives to determine what level of coordination and review those programs should have with CALFED. Mechanisms and agreements will need to be adopted to establish the framework for coordination and integration, and identify the responsibilities of all parties to coordinate programs and actions (for example the Crosscut Budget and the Single Blueprint for the ERP will require agreements/MOUs).

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7. Conflict Resolution. The commission should seek to resolve conflicts among agencies implementing the CALFED Program. Issues that could not be resolved by the agencies themselves, or by the commission, should go to the Governor and Secretary of the Interior for decision.
 8. Public Outreach and Communication. The commission should be responsible for maintaining contact with and communications with the public and media regarding program development, implementation, and performance.
 9. Legislative Communication. The commission should be responsible for maintaining contact with and communications with Congress and the State Legislature regarding the status of program development, implementation, and performance.

4.5.3 CALFED Public Involvement

The purpose of CALFED public involvement is to maximize opportunities for the public to work with the commission, state and federal implementing agencies, and scientific and technical advisors to design, implement, and evaluate the CALFED Program. "Public," in this context, means interest groups, their representatives, and the public at-large. Public involvement in the program will be provided through advisory committees and groups, public workshops, newsletters, and other publications that provide updated information, and meetings outside the Sacramento area. The current citizen advisory group, the Bay-Delta Advisory Council (BDAC), was established to provide advice to the program in the planning phase during the development of a Preferred Program Alternative. As this phase is completed and the implementation phase begins, the structure and membership of advisory groups will be reevaluated.

CALFED has evaluated various structures for providing public involvement through advisory groups, including:

- Broad public advisory committee
- Program area work groups
- Local/regional workgroups

Broad public advisory committee. CALFED agencies support the creation of a broad public advisory committee. One of the primary responsibilities of the advisory committee would be to assist the commission in its responsibilities of program integration, coordination, balance, and assessment. The advisory committee would meet as needed. Membership would be made up of qualified representatives of Indian tribes and stakeholder groups, including environmental justice representatives. The advisory committee members would be selected based on their experience and expertise in relevant fields, such as ecosystem restoration, agriculture, hydrology, urban water management, fishery biology, water quality, flood management, water conservation and

recycling, and economics. Appointments would be made to assure that the advisory committee as a whole is both balanced and diverse. Representatives of the commission and CALFED agencies would be charged with attending advisory committee meetings and providing the information and reports as the committee may request. Responsibilities could focus on:

- Long-term plans and program area performance and priorities
- Program integration
- Liaison between its work groups, subcommittees, and the commission
- Creation of subcommittees and work groups, as needed
- Considering recommendations from subcommittees and local work groups

Program area work groups. CALFED will continue to rely on program area work groups in the refinement and implementation of the Program. The role of program area work groups would be to focus on specific program areas and provide specialized technical/policy expertise to the program. Membership would include individuals with technical/policy expertise pertinent to the program area, such as ecosystem restoration and drinking water quality experts from non-governmental organizations, tribes, water agencies, state and federal agencies, and the public at-large. The Delta Drinking Water Council and the Levee Coordination Team are examples of program area work groups that will be needed during implementation.

Local/regional work groups. CALFED supports the creation of local work groups to provide the public and local forums to support community-based outreach as described in the Watershed Program Plan. Local work groups could represent specific geographic areas in the CALFED solution area, such as northern California, San Joaquin Valley, Delta/Bay Area, and southern California. Alternatively, they could represent local conservancies in watersheds or ecological zones. Membership could include local government representatives, local non-governmental organizations, local tribal representatives, and the public at-large. Responsibilities would include:

- Effective coordination/interaction with local citizens
- Liaison between the local areas and CALFED
- Providing local advice on program element performance and priorities

4.5.4 CALFED Science Program

The purpose of the CALFED Science Program (see CMARP Appendix and Phase II Report for additional description) is to provide a comprehensive framework to provide new information and scientific interpretations necessary to implement, monitor, and evaluate the success of the CALFED Program. An overriding principle of the Science Program is adaptive management. New information and scientific interpretations will be used to confirm or modify all aspects of

the Science Program, including problem definitions, conceptual models, research, and implementation actions.

The scope of the CALFED Science Program will provide scientific information for the CALFED Program as defined by the Programmatic EIS/EIR. While all the CALFED Programs will have a science component to address areas of less certainty, some programs such as the ecosystem program strongly rely on an adaptive management science program. In addition, the information from the CALFED Science Program should be used by other related state, federal, local, and nongovernmental actions/programs in the CALFED solution area. This includes other ecosystem restoration, water quality, levee, and water management activities both regulatory and nonregulatory, including water project operations.

The governance structure and responsibilities of the CALFED Science Program are still being evaluated by CALFED, with state and federal agency and stakeholder input. Generally, there is agreement that the Science Program should be coordinated by a Chief Scientist reporting to the commission executive director. In order to better integrate objective scientific review into the CALFED Program, the Governor and the Secretary of the Interior will appoint an Independent Science Board to provide science oversight for the overall program. A science panel will be convened for review of the EWA. Other science panels will be convened as needed. The mechanisms for integration of the Science Program with the regulatory agencies and the distribution of responsibilities between program managers and the Chief Scientist are issues that will be resolved by the time of the ROD.

4.5.5 CALFED Program Areas

The commission's staff, under the direction of the executive director, would be responsible for program direction, coordination, and in certain cases to minimize fragmentation, program management. In evaluating how each of the program areas should be managed, CALFED is considering the following factors:

- Is there an existing agency available to assume the CALFED Program objectives without conflict with existing agency objectives?
- Is there an existing agency that has the expertise to manage the program area?
- Is the program area currently fragmented among many agencies?
- Is the program area complex and large in scope, making it difficult for an existing agency to assume the new program?

Legislation establishing the commission should specify the roles and responsibilities of the commission and the agencies in overseeing, directing, and managing the CALFED Program.

4.5.6 Annual Status Report

The commission will prepare an annual report to the Governor, the Secretary of Interior, Congress, the California Legislature, and other interested parties that describes the status of implementation of all elements of the Program. Consistent with Proposition 204, prior to November 15 of each year, the commission in consultation with other interested persons and agencies, will review the CALFED Program's progress in meeting the implementation schedule established in the Final Programmatic EIS/EIR and ROD. The annual report will be submitted by December 15th of each calendar year. The report will include a status report on all actions taken to meet CALFED objectives in Stage 1, including goals, actions, schedules, and financing agreements in the following areas:

- Completion of key projects and milestones identified in the ERP;
- Development and implementation of local programs for watershed conservation and restoration;
- Achievement of commitments under state and federal ESA
- Implementation of a comprehensive science program;
- Progress on storage projects, conveyance improvements, water quality infrastructure projects, and water use efficiency targets;
- Progress toward acquisition of the state and federal permits, including Clean Water Act Section 404, for implementation of projects in all identified program areas; and
- Progress in achieving benefits in all geographic regions covered by the Program
- Legislative action on the Program, including water transfer, groundwater management, water use efficiency, and governance issues

If at the conclusion of each annual review, or if timely annual review has not been issued, the Governor or the Secretary of the Interior determines that the schedule or objectives established in the final ROD has not been substantially adhered to, the Governor and the Secretary, after notice to, and consultation with state and federal CALFED representatives, will prepare a revised schedule that ensures that balanced solutions in all program areas are achieved consistent with the intent of the final ROD. State funds, if determination was made by the Governor, and federal funds if the determination was made by the Secretary, will only be available for expenditure in the subsequent budget year if a revised schedule has been developed within six months from the date on which the determination was made that the prior schedule has not been substantially adhered to. Upon the submission of any revised schedule, funds will be expended in accordance with the revised schedule.